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Kenneth D. Sibley
Myers Bigel Sibley & Sajovec, P.A.
P.O. Box 37428
Raleigh NC 27627

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OFFICE OF PETITIONS

In re Application of :
Bruce Hammerberg :
Application No. 10/758,165 : DECISION ON PETITION UNDER
Filing Date: January 15, 2004 : 37 C.F.R. §1.10(c)
Attorney Docket No. 5051-661 :
Title: IMMUNOGLOBULIN E :
DETECTION IN MAMMALIAN SPECIES :

This is a decision on the petition under 37 C.F.R. §1.10(c), filed September 14, 2004, requesting the according of a filing date of January 15, 2004 to application number 10/758,165.

The application was deposited on January 15, 2004. On August 12, 2004, the Office mailed a filing receipt, indicating that application number 10/758,165 had been accorded a filing date of January 16, 2004.

With the instant petition, Petitioner has included a copy of the Express Mail label number EV381447695US¹.

Petitioner has alleged that the application was deposited on January 15, 2004, and the Patent Office has incorrectly assigned a filing date of January 16, 2004 to the instant application. Petitioner has included a copy of the Express Mail label, and it is noted that it bears a "date-in" of January 15, 2004.

A check of the Office's USPS Express Mail Finder Database computer program was inconclusive. A check of the United States Postal Service's website (<http://www.usps.com/shipping/trackandconfirm.htm>) was also

¹ The Utility Patent Application Transmittal sheet has been located in the electronic file, and it is noted that it contains this same Express Mail label number.

inconclusive, in that it stated that the information pertaining to this Express Mail label number is stored off-line. A copy of the latter search result is enclosed.

Although the application received a filing date of January 16, 2004, the evidence is convincing that the application papers were filed on January 15, 2004, and the Patent Office assigned the incorrect date to the application. Therefore, the application was entitled to a filing date of January 15, 2004.

Accordingly, the petition is **GRANTED**.

The application file is being returned to the Office of Initial Patent Examination for further processing with a filing date of January 15, 2004, as well as the mailing of a corrected filing receipt.

The general phone number for the Office of Petitions which should be used for status requests is (571) 272-3282. Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225.



Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

Encl.